

Chief, Contract Branch

28 May 1951

Assistant General Counsel

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1. Reference is made to the proposed subject contract calling for the installation of a recording, playback and public address system in [ ] in accordance with the specifications therein set forth. This office has noted the following provision appearing under the general heading "Specifications for Recording, Playback and Public Address System":

"All apparatus similar or equal shall be the product of a manufacturers who have been producing similar or equal apparatus for a period of at least five (5) years and who shall be able to refer to similar installations now rendering satisfactory service."

2. R. S. 3709 sets forth in substance that all persons shall have an equal right to compete for Government business and that the Government shall secure the benefits which flow from such competition. Although the development of adequate specifications is a difficult task, as the subject file indicates, advertised specifications must nevertheless be free of such restrictions as will hinder or defeat the avowed purposes of the competitive bidding statute.

3. It is the opinion of this office that the provision cited above restricts the Government business under procurement to those firms who were established five years prior to the date of bid. Hence, any organization established shortly after the expiration after World War II would be disqualified from bidding because of lack of maturity. This can be, and frequently is, a difficult situation due to veterans' aspects and the Congressional interest in protecting small business.

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cc: ✓ Subject  
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